

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04CV-10619RCL

JAMES R. MENARD,

Plaintiff,

v.

C&S WHOLESALE GROCERS, INC. and  
MARILYN TILLINGHAST,

Defendants.

**PLAINTIFF'S OPPOSITION TO DEFENDANTS' NOTICE OF REMOVAL AND  
PLAINTIFF'S MOTION TO REMAND**

INTRODUCTION

Pursuant to 28 U.S.C. §§ 1441(a), 1441(b), and 1447(c) Plaintiff, James R. Menard, hereby opposes Defendants' Notice of Removal and moves this Court to remand this matter back to the Superior Court Department of the Commonwealth of Massachusetts.

As grounds therefore, Plaintiff states that the Defendants, C&S Wholesale Grocers, Inc. ("C&S" or "the Company") and Marilyn Tillinghast improperly removed this as a diversity action given that C&S is a corporate citizen of Massachusetts and Ms. Tillinghast is a resident of Massachusetts, the forum in which this action was originally brought.

In further support of this Motion, Plaintiff relies upon his Memorandum of Law submitted herewith.

WHEREFORE, pursuant to 28 U.S.C. §§ 1441(a), 1441(b), and 1447(c), Plaintiff James R. Menard requests that his case be remanded to the Commonwealth of Massachusetts Superior Court Department of the Trial Court for Norfolk County and that he be awarded all attorneys' fees, costs and expenses which he was forced to incur as a result of this improper removal pursuant to 28 U.S.C. § 1447(c).

JAMES R. MENARD  
By his attorneys,

I hereby certify that a true copy of the  
above document was served upon the  
attorney of record for each party by  
mail, hand on 4/30/04  
Kathryn E. Abare

Kathryn E. Abare  
David M. Felper, Esq., BBO #162460  
Kathryn E. Abare, Esq., BBO #647594  
Bowditch & Dewey, LLP  
311 Main Street – P.O. Box 15156  
Worcester, MA 01615-0156  
(508) 791-3511

Date: April 30, 2004